

California Victim Compensation and Government Claims Board

Open Meeting Minutes

February 17, 2005

The California Victim Compensation and Government Claims Board convened its regular session at the call of Fred Aguiar, Secretary, State and Consumer Services, at the First Floor Hearing Room, 630 "K" Street, Sacramento, California, on Thursday, February 17, 2005, at 10:00 a.m. Also present were Board members Windie Scott, Deputy State Controller, acting for and in the absence of Steve Westly, Controller, and Michael Ramos, San Bernardino County District Attorney.

Board staff present included Karen McGagin, Executive Officer; Richard Anderson, Chief Deputy Executive Officer; Donna Ferebee, Acting Chief Counsel; Kathy Hicks, Manager, Government Claims Program; and Missy Carrick, Board Liaison, recorded the meeting.

The Board meeting commenced with the pledge of allegiance.

The Executive Officer announced the departure of Luisa Park who returned to the Office of Public School Construction and introduced Dennis Boydstun, Interim Deputy Executive Officer, Administration and Kathy Hicks, Manager, Government Claims Program.

MINUTES

The Board voted to adopt the minutes of the January 20, 2005 Board meeting.

EXECUTIVE OFFICER'S STATEMENT

The Executive Officer reported on the following:

Helping Reach Victims of Glendale Train Derailment

Local Victim Witness Assistance Centers responded swiftly to the January 26 train derailment in Glendale. The Board joined forces with the Office of Emergency Services (OES) to offer assistance to the Los Angeles County Victim Witness Assistance Center, the Ventura County Victim Witness Assistance Center, and other local victim advocates as soon as it became apparent that the derailment was the result of a criminal action. Ted Boughton, Victim Compensation Program Deputy Executive Officer, worked with OES and local coordinators to identify what the local centers needed. Mass casualty protocols jointly developed by OES and the Board were activated to facilitate decision-making and communication. The Board determined that any person aboard any of the three trains involved would potentially be eligible for victim compensation. In addition, employees from a nearby Costco and other individuals in the area at the time of the incident played an important role in rescue efforts, potentially qualifying them for the Board's Good Samaritan Program.

The Board took several immediate steps to help the local centers. Board staff provided fact sheets on the Victim Compensation Program and the Good Samaritan Program that were specific to the incident and printed in both English and Spanish. They also sent boxes of brochures and applications overnight to both Los Angeles and Ventura County; issued an information bulletin to victim groups and media in both counties; and posted information for victims of the derailment on the Board's website. The Board's call center staff had information about the incident and stood

ready to help callers reach assistance in the appropriate county. Local centers reported they were assisting 45 victims of the derailment with applications as of the first week in February.

Board Staff Participates in Outreach Activities to Improve Awareness of the Program

Recent efforts to raise awareness about the Victim Compensation Program will help mental health providers, law enforcement officers, and consular officers with the State Department in Mexico better understand victim compensation and how to help crime victims.

Board staff updated the Resource Guide for Consular Officers and provided information and instructional material for a January training on victim services presented by the State Department to U.S. consular officers stationed in Mexico. The material the Board provided will help the consular officers advise California residents who are victimized when traveling, working, or visiting in Mexico.

Often a consular officer is the primary contact for crime victims injured in Mexico. Sometimes he or she must notify surviving family members of a death. Realizing this, the U.S. State Department's International Victim Services Section sponsored the training session for some 40 consular officers to alert them to the variety of victim services that the border states of California, Texas, Arizona, and New Mexico provide to their citizens.

Also in January, Board staff attended the San Diego Conference on Child and Family Maltreatment. Hundreds of mental health providers gathered at this important annual conference, and Board staff had the opportunity to share information with them during the course of the weeklong meeting. The Board also hosted an information booth at the conference.

In early February, Board staff mailed more than 500 packets of information to California police chiefs and sheriffs. The packets included program brochures; compensation information cards specially designed for law enforcement officers to hand to crime victims at the time a crime happens; and posters to display in precinct and substation lobbies, where crime victims can see them when they come to file reports and meet with detectives.

California Department of Corrections Increases Collections from Inmates' Accounts

On January 1, the percentage collected from inmate trust accounts by the California Department of Corrections (CDC) for the Restitution Fund increased from 30 percent to 40 percent of each inmate's account balance. The CDC garnishes the funds from each inmate's account every month to help satisfy the amount the inmate owes in restitution fines and orders. The increase could result in an additional \$3 million a year in the Restitution Fund. In 2007, a final increase will bring the inmate trust account garnishment to 50 percent.

The first increase in years occurred on July 1, 2003 when the percentage increased from 20 percent to 30 percent. That increase was projected to generate an additional \$4 million a year for the Restitution Fund and, indeed, in Fiscal Year (FY) 2003-04, collections increased to \$12 million from about \$8 million the year before.

New Statistical Reports Debut

February marks the debut of a new report describing Victim Compensation Program activities. Each month Board staff will post information for the fiscal year-to-date. These reports will highlight how the Board helps crime victims in California. Tables and charts feature the number of applications and bills the Board receives, application processing time, and total payments the Board makes to or on behalf of victims. The Statistical Data Report will be updated and posted on the Board's website every month.

Ted Boughton, Deputy Executive Officer, Victims Compensation Program, reviewed the statistical reports with the Board.

GOVERNMENT CLAIMS PROGRAM

The Board commenced the Government Claims Program portion of the meeting at 10:15 a.m.

Item 1 **GOVERNMENT CLAIMS CONSENT AGENDA**

The Board voted to adopt the staff recommendations on the claims listed on the Government Claims Program Consent Agenda with the following changes:

Item 56 **Claimant: Sherwin Miller** **G547361**
Staff requested this claim to be continued.

Item 184 **Claimant: Success in Challenges, Inc.** **G550790**
Staff requested this claim to be continued.

Total Claims	Claims Rejected	Claims Allowed in Whole or Part	Claims Allowed		Late Claims	
			Paid via Gov. Code §965	Paid via Claims Bill	Denied	Granted
464	394	63	13	50	6	1

Item 2 **SURCHARGE CRITERIA**

Kathy Hicks, Manager Government Claims Program, presented the "Surcharge Criteria" item to the Board.

The Board voted to adopt the staff recommendations to approve the request.

Item 3 **CLAIMANT: Charcy Company, Inc.** **G552414**

A revision to this item was handed out to the Board members at the meeting. The Chair requested that future revisions be highlighted to show the changes that were made. The Department of General Services recalculated the invoices and the staff recommendation to allow the claim in the amount of \$259,867.33 changed to \$262,029.85 and the revised document also

clarified the facts. The dispute was the amount of the payment to Charcy Company, Inc. for services provided to the Department of Corrections.

Don Smith, Acting Chief of Security Operations Branch, appeared on behalf of the Department of Corrections. Mr. Smith reported that the Department would normally go out to bid on these types of services, but in this case the employee thought that using the transportation company's published rates was the correct procedure, therefore there was no written contract. The department has instituted changes to ensure all contracts will be written.

Thomas Shinmoto, Associate Transportation Analyst, appeared on behalf of the Department of General Services. He reported that they recommended to the Department of Corrections that Charcy Company, Inc. resubmit the invoices using the 2004 Standard State Rates, which would reduce the invoices to a lesser amount. The adjusted amount was based on the fact that inmates provided the labor needed to unload the trailers at the Delano Facility.

Kathy Hicks, Manager, Government Claims Program, reported that just prior to the Board meeting the Department of General services submitted a revised recommendation that included costs for a van, driver and six hours per day for 21 days and the new Department of General Services recommendation was to pay the contractor \$262,029.85.

Chuck van den Abeelen, owner, Charcy Company, Inc. and Randy Kanouse, a friend of the owner, reported that Charcy Company, Inc. has been doing business with many State agencies for 18 years and they provided the services to the Department of Corrections in the agreed upon amount of \$333,372.66. Mr. Baylen's concern was a small businessman was penalized and he requested the Board approve the payment on the 75 invoices in the amount of \$333,372.66.

After lengthy discussion and agreement by the Board that the services were provided; pursuant to Government Code section 905.2(a)(4) the Board allowed the claim in the amount of \$333,372.66.

Mr. Smith requested on behalf of the Department of Corrections to have the surcharge rate reduced.

The Board approved the request for the surcharge rate reduction.

Item 4 **CLAIMANT: Riverside County Department of Mental Health** **G545927**

Susan King, Manager, Fiscal Management and Accountability Branch, appeared on behalf of the Department of Alcohol and Drug Programs.

The Board voted to adopt the staff recommendation to allow the claim in the amount of \$100,750.81 pursuant to Government Code section 965.

Item 5 **CLAIMANT: Dillingham & Murphy, LLP** **G540959**

The Board voted to adopt the staff recommendation to allow the claim in the amount of \$64,939.40 pursuant to Government Code section 965 and rescind the previous Board action to allow the claim pursuant to Government Code section 13928.

Item 6 **CLAIMANT: Maranatha Corrections, LLC** **G547280**

The Board voted to adopt the staff recommendation to allow the claim in the amount of \$60,279.00 pursuant to Government Code section 965.

Item 7 **CLAIMANT: Sunnyvale School District** **G546770**

A revision to this item, with the changes highlighted, was handed out to the Board members at the meeting. The staff recommendation to allow the claim in the amount of \$10,881,568.00 was amended to \$6,384,798.15 and all parties have agreed to the revised settlement amount.

The Board voted to adopt the staff recommendation to allow the claim in the amount of \$6,384,798.15 pursuant to Government Code section 13928.

Item 8 **DISCHARGE FROM ACCOUNTABILITY**

Kathy Hicks, Manager, Government Claims Program, presented the "Discharge from Accountability for Uncollectible Accounts pursuant to Government Code section 13940, et seq."

The Board voted to adopt the staff recommendation to allow the Discharge from Accountability for Uncollectible Accounts in the amount of \$255,046,249.60 pursuant to Government Code section 13940, et seq.

Item 9 **REPORT: California State Employee Charitable Campaign Administrative Cost Recovery Plan**

Kathy Hicks, Manager, Government Claims Program, presented the "California State Employee Charitable Campaign Administrative Cost Recovery Plan."

VICTIM COMPENSATION PROGRAM

The Board commenced the Victim Compensation Program portion of the meeting at 10:55 a.m.

REQUESTS FOR RECONSIDERATION

The Board voted to adopt the staff recommendations to allow the requests for reconsideration for agenda item numbers 1 through 7, deny requests for reconsideration for agenda item numbers 8 through 55, and deny requests for reconsideration after Board action on a proposed decision for agenda item numbers 56 through 68.

8 CLAIMANT	279742V
9 CLAIMANT	290302V
10 CLAIMANT	400677V
11 CLAIMANT	423500V
12 CLAIMANT	572174V
13 CLAIMANT	590363V
14 CLAIMANT	626222V
15 CLAIMANT	664666V
16 CLAIMANT	682277V
17 CLAIMANT	693363V
18 CLAIMANT	695021V
19 CLAIMANT	698856V
20 CLAIMANT	729339V
21 CLAIMANT	734567V
22 CLAIMANT	741773V
23 CLAIMANT	746389V
24 CLAIMANT	747154V
25 CLAIMANT	751911V
26 CLAIMANT	759597V
27 CLAIMANT	772425V
28 CLAIMANT	791117V
29 CLAIMANT	796999V
30 CLAIMANT	800344V
31 CLAIMANT	803167V
32 CLAIMANT	805152V
33 CLAIMANT	805285V
34 CLAIMANT	806095V
35 CLAIMANT	807499V
36 CLAIMANT	808125V
37 CLAIMANT	812499V
38 CLAIMANT	813240V
39 CLAIMANT	813374V
40 CLAIMANT	813604V
41 CLAIMANT	814153V
42 CLAIMANT	816182V
43 CLAIMANT	817175V
44 CLAIMANT	817665V
45 CLAIMANT	817749V
46 CLAIMANT	820761V
47 CLAIMANT	821589V
48 CLAIMANT	822124V
49 CLAIMANT	823812V
50 CLAIMANT	826006V
51 CLAIMANT	827617V
52 CLAIMANT	830209V
53 CLAIMANT	836368V

54 CLAIMANT	838152V
55 CLAIMANT	847940V
56 CLAIMANT	497387V
57 CLAIMANT	508286V
58 CLAIMANT	584382V
59 CLAIMANT	717063V
60 CLAIMANT	752089V
61 CLAIMANT	755502V
62A CLAIMANT	757508V
62B CLAIMANT	757509V
63A CLAIMANT	761143V
63B CLAIMANT	761661V
64 CLAIMANT	789078V
65 CLAIMANT	803296V
66 CLAIMANT	770619V
67 CLAIMANT	741736V
68 CLAIMANT	745782V

The Board voted to adopt the staff recommendations on the balance of claims for which appeals were withdrawn or deemed to be withdrawn under California Code of Regulations, Title 2, Section 647.35 and action on claims for which a hearing was denied under California Code of Regulations, Title 2, Section 647.20.1 for agenda item numbers 69 through 124.

CLOSED EXECUTIVE SESSION (GC § 11126(c)(3) and 11126(e)(1))

Pursuant to Government Code sections 11126(c)(3), and 11126(e)(1) the Board adjourned into a closed Executive Session with the Board's Executive Officer and Acting Chief Counsel at 10:57 a.m., to deliberate on the proposed decisions that were taken under submission during the meeting and to discuss the following pending litigation:

- Charles Meany v. California Victim Compensation and Government Claims Board
San Francisco County Superior Court CPF 03503699
- MCI Worldcom Communications Inc. v. State of California, Victim Compensation and Government Claims Board and the Department of General Services
Sacramento County Superior Court 04CS00978
- *Update on Contract BOC-3015 with EmergingSoft Corporation*

The Board reconvened into open session at 10:59 a.m.

PROPOSED DECISIONS

Item 125	<u>CLAIMANT</u>	056285V
The Board voted to adopt the proposed decision.		
Item 126A	<u>CLAIMANT</u>	582496V

The Board voted to adopt the proposed decision.

Item 126B **CLAIMANT** **582500V**

The Board voted to adopt the proposed decision.

Item 127 **CLAIMANT** **711977V**

The Board voted to adopt the proposed decision.

Item 128A **CLAIMANT** **779360V**

The Board voted to adopt the proposed decision.

Item 128B **CLAIMANT** **780783V**

The Board voted to adopt the proposed decision.

Item 129 **CLAIMANT** **783962V**

The Board voted to adopt the proposed decision.

ADJOURNMENT

The meeting was adjourned at 11:00 a.m.

KAREN McGAGIN
Executive Officer

I certify that the California Victim Compensation and Government Claims Board adopted these minutes at its meeting of _____ at _____, California.

Date: _____ By: _____

Missy Carrick
Board Liaison

(Affix seal here)